IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3068 OF 2005

Dr. Rajendra Vasant Bhavsar ..... Petitioner

Versus

Mr. Pravin Vasantrao Darade ..... Respondents

and others

Mr. Rahul D. Motkari for the Petitioner.

Mr. P.J. Pandit for Respondent No. 1.

Mr. A.S. Shitole, APP for the State

CORAM : ABHAY S. OKA, J.

DATE : 28TH AUGUST, 2006

P.C.

1) Heard learned Advocates appearing for the Parties. The Petitioner who is arraigned as an accused in a complaint filed by the first Respondent under Section 138 of The Negotiable Instruments Act, 1882 has taken exception to Order dated 15th October 2005 passed by the learned Magistrate. By the said order, the first Respondent- complainant is permitted to be recalled for recording further evidence. The learned Advocate for the Petitioner submitted that the

application made by the first Respondent was very vague and the application itself does not make out any ground for recalling the first Respondent. The learned counsel appearing for the Respondent no. 1 stated that the first Respondent is being recalled only for the purposes of proving the original documents which are already on record of the Trial Court. He invited my attention on observation made by the learned Trial Judge in the impugned order.

2) I have considered the submissions. Power under Section 311 of the Code of Criminal Procedure, 1973 can be exercised at any stage of the proceedings. In the present case, the impugned order makes it very clear that the first Respondent does not desire to produce any new documents and further examination-in-chief of the first Respondent will be confined to the documents which are already filed by the first Respondent. No case is made out to interfere with impugned order. It is obvious that after the first Respondent is recalled, it will be open for the Petitioner to lead further evidence, if any.

3) Subject to observations made above, Writ Petition is rejected. No order as to costs.

(ABHAY S. OKA, J.)